

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CORNELIUS L. HARRIS,
Plaintiff,

vs.

WARDEN R. ERDOS, et. al.,
Defendants.

Case No. 1:20-cv-120

Black, J.
Litkovitz, M.J.

**ORDER AND REPORT
AND RECOMMENDATION**

Plaintiff, a prisoner at the Southern Ohio Correctional Facility, has filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983 in this Court. On March 23, 2020, the Court issued a Report and Recommendation that the complaint, as amended, be dismissed with prejudice, pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1), with the exception of plaintiff's claim that defendants Taylor and John Doe Officers 1-5 improperly denied him recreation. (Doc. 4). The undersigned also recommended that plaintiff's motion for a preliminary injunction and temporary restraining order (Doc. 2) be denied.

Plaintiff has filed a second motion to amend his complaint. (Doc. 8). In the March 23, 2020 Order and Report and Recommendation, the undersigned recommended that plaintiff's claims brought against defendants in their official capacities be dismissed to the extent that plaintiff seeks monetary damages. (Doc. 4 at PageID 89). Plaintiff now seeks to amend his complaint to sue all individuals in their individual capacities. (Doc. 8 at PageID 126). Plaintiff's motion (Doc. 8) is hereby **GRANTED**.

Plaintiff has also filed a second motion for a preliminary injunction. (Doc. 5). For the reasons stated in the March 23, 2020 Order and Report and Recommendation, plaintiff's second motion should be denied. (See Doc. 4 at PageID 96–98).

IT IS THEREFORE RECOMMENDED THAT:

1. Consistent with the March 23, 2020 Order and Report and Recommendation, the complaint, as amended, be **DISMISSED with prejudice** pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1), with the exception of plaintiff's claim that defendants Taylor and John Doe Officers 1-5 improperly denied him recreation.
2. Plaintiff's motion for a preliminary injunction and temporary restraining order (Doc. 5) be **DENIED**.

Date: 4/28/2020


Karen L. Litkovitz
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).